
DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 181 and 183****[USCG-1998-4734] - 4****Manufacturer Exemptions From
Recreational Boat Standards****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of petition and request for comments.

SUMMARY: The Coast Guard seeks public comment to better respond to a petition for rulemaking submitted by the Personal Watercraft Industry Association (PWIA). The petition requests that the Coast Guard authorize a new method of complying with recreational boating safety laws as they relate to personal watercraft (PWC). Currently, PWC manufacturers must petition for an exemption from manufacturing regulations. The PWIA petition suggests that the Coast Guard replace the exemption process with a requirement for manufacturers to comply with certain industry standards. This notice fully describes manufacturing regulations for recreational boats, the exemption process, and related issues to assist interested persons with providing helpful comments as to whether the Coast Guard should initiate a regulatory project.

DATES: Comments and related material must reach the Docket Management Facility on or before January 19, 2000.

ADDRESSES: You may submit your comments and related material by only one of the following methods:

1. By mail to the Docket Management Facility (USCG- 1998-4734), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

2. By hand delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

3. By fax to Docket Management Facility at 202-493-2251.

4. Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Alston Colihan, Office of Boating Safety, Recreational Boating Product Assurance Division, U.S. Coast Guard, telephone 202-267-0981. For questions on viewing or submitting material to the

docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Background

The Federal Boat Safety Act of 1971 (46 U.S.C. 4302) gave the Coast Guard the statutory authority to issue regulations establishing minimum safety standards for the manufacture of recreational boats and associated equipment. The Coast Guard subsequently issued the regulations that appear in 33 CFR Parts 181 (certification regulations) and 183 (manufacturing regulations). Those regulations establish standards for the manufacture of conventional types of recreational boats—ones that contain a typical hull, transom, and passenger load carrying area. Under the Federal Boat Safety Act of 1971, the Coast Guard may issue exemptions from the regulations after determining that doing so will not adversely affect boating safety. Since 1972, the Coast Guard has granted exemptions from the regulations with respect to certain non-conventional boats including personal watercraft (PWC), airboats, hovercraft, submarines, drift boats, race boats, and mini bass boats. To assist persons who wish to respond to this request for comments, this notice explains the definition of PWC and describes, in detail, certification and manufacturing regulations as they relate to personal watercraft. In their petition, PWIA

suggests that the Coast Guard eliminate the exemption process with respect to PWC by requiring manufacturers of PWC to comply with certain industry standards.

The Definition of Personal Watercraft (PWC)

The PWC industry coined the term “Personal Watercraft.” International Standards Organization (ISO) 13590 defines personal watercraft as “* * * an inboard vessel less than 4 meters (13 feet) in length which uses an internal combustion engine powering a water jet pump as its primary source of propulsion, and is designed with no open load carrying area which would retain water. The vessel is designed to be operated by a person or persons positioned on, rather than within the confines of the hull.”

The Coast Guard has not formally adopted this definition for PWC for two reasons. First, there exist other types of boats that might fit into the above definition except they are outboard powered. Second, PWC designs are changing such that they are able to carry multiple passengers and additional gear.

Manufacturing Regulations for Recreational Boats and Typical Exemptions

The following table (Table 1) shows manufacturing regulations and the vessels to which they apply:

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Table 1 – MANUFACTURING REGULATIONS AND THE VESSELS TO WHICH THEY APPLY

	Less than 20 feet in length				20 feet or more in length		
	Rowboat	Outboard	Inboards and Sterndrives	Airboats	Outboard	Inboards and Sterndrives	Airboats
Display of Capacity Information ¹	X	X	X	X			
33 CFR 183, Subpart B							
Safe Loading ¹	X	X	X	X			
33 CFR 183, Subpart C							
Safe Powering ¹		X					
33 CFR 183, Subpart D							
Basic Flotation ¹			X	X			
33 CFR 183, Subpart F							
Level Flotation ¹	X	X					
33 CFR 183, Subparts G and H							
Electrical Systems ²			X	X		X	X
33 CFR 183, Subpart I							
Fuel Systems ²			X	X		X	X
33 CFR 183, Subpart J							
Ventilation ³		X	X	X	X	X	X
33 CFR 183, Subpart K							
Start-In-Gear Protection – Applies to outboard motors capable of developing more than 115 pounds of static thrust							
33 CFR 183, Subpart L							
Certification Label – Applies to all boats subject to an applicable Coast Guard safety standard in Part 183							
33 CFR 181, Subpart B							
Hull Identification Number – Applies to all recreational boats							
33 CFR 181, Subpart C							

¹ Except multihulls, sailboats, canoes, kayaks and inflatables² Boats with permanently installed gasoline engines for electrical generation, mechanical power or propulsion, except outboards³ All boats powered by gasoline engines, including most outboards

The manufacturing regulations, in 33 CFR Part 183, intend to: (1) Reduce capsizings, swampings, and sinkings involving **monohull** boats less than 20 feet in length; (2) reduce the incidence of fires and explosions involving boats equipped with permanently installed gasoline engines; and (3) reduce falls overboard from outboard powered boats.

The certification regulations, in 33 CFR Part 18 **1**, require manufacturers to affix a label with specific information certifying compliance with the manufacturing regulations. Manufacturers that obtain an exemption from compliance with the manufacturing regulations also obtain

an exemption from compliance with the certification regulations.

The following table (Table 2) provides examples of some types of boats for which the Coast Guard has granted exemptions from compliance with certification and manufacturing regulations:

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**Table 2 – TYPES OF BOATS FOR WHICH COAST GUARD HAS GRANTED EXEMPTIONS
FROM SAFETY STANDARDS**

	Display of Capacity Information	Safe		Safe		Basic		Level		Electrical		Fuel		Ventilation	
		Subpart B	Loading Subpart C	Powering Subpart D	Flotation Subpart F	Flotation Subpart G/H¹	Subpart I	Subpart J	Subpart K						
PWC² (inboard)	X	X		X	X										
PWC² (outboard)	X	X					X								
Airboat	X	X				X				X		X			
Hovercraft	X	X								X		X			
Drift Boar³ (10 hp)				X				X							
Drift Boat (manual)								X							
Submarine	X	X													
Raceboat (outboard)	X	X	X												
Raceboat (inboard)	X	X	X							X		X		X	
Mini Bass Boats	X	X	X	X				X							

¹Subpart G applies to boats rated for outboards of more than 2 horsepower; Subpart H to less than 2 hp or manual propulsion

²Personal Watercraft.

³Drift Boats are primarily motorless craft used for fishing in whitewater in the Pacific Northwest

The Display of Capacity Information, Safe Loading, Safe Powering and Flotation Standards apply to manufacturers of **monohull** boats less than 20 feet in length, except sailboats, canoes, kayaks and inflatables.

Display of Capacity Information

The display of capacity information regulations require manufacturers to display the maximum persons capacity and the maximum weight capacity determined in accordance with the **Safe Loading** regulations on a U.S. Coast Guard Maximum Capacities Label affixed to the boat. The standard also requires display of the maximum horsepower capacity determined in accordance with the **Safe Powering** regulations on outboard powered boats.

Safe Loading

The safe loading regulations are divided into three parts depending upon whether a boat is: (1) Manually propelled or rated for an outboard motor of two horsepower or less; (2) rated for an outboard motor of more than two horsepower; or (3) equipped with an inboard or sterndrive engine. The maximum weight capacity of a boat (persons, motor and gear for outboards and persons and gear for inboards) is dependent upon its maximum displacement, or, the weight of the volume of water it displaces at maximum level immersion. The maximum persons capacity of a boat (expressed both pounds and in a number of persons) is dependent upon the amount of weight which can be added along the outboard extremity of the passenger carrying area, at the height of the seat nearest the center of that area, until the boat assumes maximum list without water coming into the boat.

Some boats such as PWC and submarines do not have open hulls into which water will flow. As a result, it is physically impossible to test them for compliance with the standard set forth by the regulation. Therefore, the manufacturers of these types of recreational vessels petition for an exemption to the safe loading requirements. Other boats such as airboats, with their high center of gravity, and mini bass boats, with virtually no open load carrying area into which water will flow, rate unusually low maximum weight and maximum persons capacities as compared to similar size conventional boats. Therefore, the manufacturers of these boats submit petitions for exemptions to the safe loading regulations as well. Because a safe loading determination is necessary to comply with the display of

capacity regulations, manufacturers who petition for a safe loading exemption also petition for exemption from display of capacity information regulations.

Safe Powering

The safe powering regulations require manufacturers of most **monohull** outboard powered boats less than 20 feet to determine a maximum horsepower capacity by performing certain calculations and using a table appearing in the regulations. A separate and optional performance test is permitted for manufacturers of smaller runabouts that meet certain specifications. Some outboard powered PWC-type vessels have remote wheel steering, but they lack a transom making it impossible to use either the calculation method or the performance test method for computing horsepower. Therefore, manufacturers of **outboard-**powered PWC must petition for an exemption to the safe powering regulations

Flotation

The flotation regulations intend to ensure that manufacturers equip recreational boats with sufficient flotation material to induce people to remain with the boat when the boat becomes swamped with water. With sufficient flotation material, the boat will serve as a safety platform where people can remain until located and rescued. Flotation regulations require manufacturers to equip boats with enough flotation material to provide either basic flotation or level flotation depending upon the boat's propulsion system. A maximum persons capacity determination in accordance with the safe loading regulations is an essential part of the flotation formulas for both basic and level flotation. Because it is impossible to calculate a maximum persons capacity for PWC (see the above discussion in the **Safe Loading** section), PWC manufacturers are unable to calculate the amount of flotation material to show compliance with the flotation regulations. Therefore, PWC manufacturers must petition for an exemption from the flotation regulations.

Electrical and Fuel Systems

The electrical-system regulations contain requirements for ignition protection of electrical components, installation of batteries, wiring, grounding and overcurrent protection. They are intended to reduce the incidence of ignition sources that could possibly lead to fires or explosions. The fuel-system regulations contain a variety of requirements for fuel tanks, fuel

pumps, fuel hoses and carburetors; fittings, joints and connections; and system tests. They are intended to reduce the incidence of gasoline **fuel-**system leaks which could lead to fires and explosions.

The Coast Guard patterned the electrical and fuel system regulations after voluntary standards set forth by the National Fire Protection Association (NFPA), the American Boat and Yacht Council (ABYC), the Society of Automotive Engineers (SAE), Underwriters Laboratories (UL), and Coast Guard sponsored research. Those voluntary standards and the Coast Guard research consider only conventional inboard and sterndrive boats that are typically longer than 16 feet and have conventional hull construction, where the operator and passengers ride within the confines of the hull adjacent to, or directly above, the engine spaces. The internal volume of the engine rooms of the inboard boats on which the electrical and fuel system regulations are based exceeds 10 cubic feet. PWC do not typically have those attributes. The Coast Guard has granted most PWC manufacturers exemptions from the electrical and fuel systems regulations because they meet the intent of the regulations by featuring the following attributes: sealed electrical systems, fuel systems that continue to operate without leakage when oriented in any position, fuel pumps and carburetors that contain only minimal amounts of fuel and relatively small **net-**engine compartment volumes.

Ventilation

The ventilation regulations apply to all boats with gasoline engines, including most outboard powered boats. The regulations covering powered ventilation systems, when promulgated, however, did not consider vessels that had a tendency to capsize and would ingest water into blower intakes. Nor did the regulations specify blower capacities appropriate for the minimal net compartment volumes of most PWC. Therefore, the Coast Guard has granted exemptions from the powered ventilation regulations to manufacturers of inboard PWC.

Start-in-Gear Protection

The start-in-gear protection regulations apply to outboard motors capable of producing more than 115 pounds of static thrust, and to controls associated with the use of such motors. The regulations are intended to prevent motors from being started in gear, thereby reducing the incidence of falls overboard. Several manufacturers of outboard motors for racing purposes

have received exemptions from the start-in-gear protection requirement.

The Exemption Process

A boat manufacturer petitions for an exemption from regulations by sending the Coast Guard's Recreational Boating Product Assurance Division a letter describing the boat for which the exemption is sought, the reasons why the application of a regulation is impractical or unreasonable, and providing data or arguments that demonstrate why boating safety will not be adversely affected. Each petition for an exemption is considered on its own merits. To obtain an exemption, the manufacturer must show that the boat for which the exemption is sought achieves an acceptable level of safety in keeping with the intent of Federal boating safety laws.

The grant of exemption contains language that requires the manufacturer to display a label different than the typical certification label to alert the owner or operator that the boat does not comply with the Coast Guard standards published in the Code of Federal Regulations. An exemption lasts for a period of three years after which the manufacturer must petition the Coast Guard for an extension. If the manufacturer changes the design or construction of a boat subject to the provisions of an exemption, or if the manufacturer begins producing additional model boats, the manufacturer must petition the Coast Guard for an amendment to the provisions of the grant of exemption.

Petition for Rulemaking

On September 20, 1998, Mr. Fernando Garcia, Chairman, National Marine Manufacturers Association (NMMA) PWC Certification Committee, sent a petition for rulemaking to the Commandant of the Coast Guard on behalf of the NMMA and the Personal Watercraft Industry Association (PWIA). The petition encourages the Coast Guard to allow manufacturers to comply with certain industry standards for PWC instead of requiring them to undergo the exemption process for every new model. Specifically, the petition recommends the Coast Guard adopt the ISO 13590 manufacturing standards as an alternative to the exemption process. The petition is available for inspection in the public docket for this rulemaking. You can access the petition for rulemaking in the public docket. To access the public docket, see the **ADDRESSES** section of this publication.

NTSB Report

On May 19, 1998, the National Transportation Safety Board (NTSB) issued a report that recommended the Coast Guard eliminate the existing process of exempting personal watercraft from the regulations in 33 CFR Parts 181 and 183 and develop safety standards specific to personal watercraft. You can access the excerpt from the NTSB report in the public docket. To access the public docket, see the **ADDRESSES** section of this publication. You can purchase your own copy of the entire NTSB report by ordering report number **PB98-9 17002** from: National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 22161, (703) 605-6000.

Public Meeting

The Coast Guard does not now plan to hold a public meeting in response to this petition. But you may request one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If the Coast Guard determines that one would aid the consideration of this petition, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Request for Comments

The Coast Guard encourages you to submit comments and related material answering the questions below. We also welcome any other comments in connection with this notice. Please include with your submission your name and address, identify the docket number for this rulemaking (**USCG-1998-4734**), indicate the specific question of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Your comments will help us to determine whether to initiate a rulemaking in accordance with the petitioner's request.

Questions

1. Should the Coast Guard formally recognize a definition of PWC? If no,

why not? If yes, what definition of PWC should the Coast Guard adopt? What types of vessels should the definition of PWC include or exclude? Should the definition of PWC include vessels equipped to carry multiple persons and large volumes of cargo? How many people and how large should a PWC be allowed to get before it would fall outside of the definition? Vessels called PWC also have been referred to as thrill craft, sport boats, jet skis, water scooters, etc. What should this type of vessel be called? Why?

2. Should the Coast Guard continue to require PWC manufacturers to petition the Coast Guard for exemptions to the manufacturing regulations for recreational boats? Why or why not?

3. Should the Coast Guard develop a method other than the exemption process to require PWC manufacturers comply with Federal recreational boating safety laws? If no, why not? If yes, what alternate method should the Coast Guard develop? Examples of alternate regulatory methods to the exemption process include (1) requiring that PWC manufacturers meet prescribed industry design standards such as ISO 13590 standards, SAE standards, or some other industry standard or (2) developing manufacturing regulations that address accidents associated with the specific design of PWC.

4. The Coast Guard also grants exemptions for other categories of non-conventionally designed recreational boats. Some include airboats, hovercraft, submarines, drift boats, race boats, and mini bass boats. Should the Coast Guard develop a method other than the exemption process to require manufacturers of those non-conventionally designed boats to comply with Federal recreational boating safety laws? Why or why not?

Dated: October 6, 1999.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Operations.

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